

[redacted] please bring this email over to BuNet in text form.

**From:** [redacted] (OTD) (FBI)  
**Sent:** Tuesday, September 15, 2015 4:42 PM  
**To:** [redacted] (DIV16) (FBI)  
**Cc:** [redacted] (OTD) (FBI); [redacted] (OTD) (FBI)  
**Subject:** Fwd: NDA with FBI

b6 -1  
b7C -1

For awareness...

...

----- Original message -----

**From:** [redacted] (OGC) (FBI)" [redacted]  
**Date:** 09/15/2015 4:38 PM (GMT-05:00)  
**To:** [redacted] (FBI)" [redacted] (FBI)"  
[redacted] (OTD) (FBI)" [redacted]  
**Subject:** RE: FW: NDA with FBI

b6 -1  
b7C -1  
b7E -2

[redacted]

[Large redacted block]

b5 -1,2

[redacted]

[redacted]

Operational Technology Law Unit  
Federal Bureau of Investigation  
Office [redacted]  
BB [redacted]  
E-Mail: [redacted]

b6 -1  
b7C -1  
b7E -2

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**From:** [redacted] (FBI)  
**Sent:** Tuesday, September 15, 2015 3:01 PM  
**To:** [redacted] (OTD) (FBI)  
**Cc:** [redacted] (OGC) (FBI)  
**Subject:** RE: FW: NDA with FBI

b6 -1  
b7C -1

[redacted]

b5 -1,2

I will be at the IPO for the next few weeks and would love to discuss this further and help draft policy that will can achieve what all of us want to complete the mission.

Thanks,

[redacted]

**From:** [redacted] (FBI)  
**Sent:** Tuesday, September 15, 2015 2:45 PM  
**To:** [redacted] (OTD) (FBI)  
**Cc:** [redacted] (OGC) (FBI); [redacted] (FBI)  
**Subject:** FW: FW: NDA with FBI

b6 -1  
b7C -1

[redacted]

Back in April [redacted]

[redacted]

b5 -1,2  
b6 -1  
b7C -1  
b7E -1,3

[redacted] ...This is something we need to clarify in the next version of the NDA...

On Tech Tuesday today, you advised that a [redacted]

[redacted]

My personal belief is [redacted]

[redacted]

[Redacted]

b5 -1,2  
b7E -3

is this at all possible?

[Redacted]

b6 -1  
b7C -1  
b7E -2

**From:** [Redacted] (OGC) (FBI)  
**Sent:** Tuesday, April 28, 2015 11:24 AM  
**To:** [Redacted] (FBI)  
**Subject:** RE: FW: NDA with FBI

[Redacted]

I agree that the

[Redacted]

[Redacted]

b3 -1  
b5 -1,2  
b7E -1

[Redacted]

[Redacted]

[Redacted]

b6 -1  
b7C -1  
b7E -2

Federal Bureau of Investigation  
Office of the General Counsel  
Office of [Redacted]  
BB [Redacted]  
E-Mail [Redacted]

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b6 -1  
b7C -1  
b7E -2

**From:** [Redacted] (FBI)  
**Sent:** Tuesday, April 28, 2015 12:40 PM  
**To:** [Redacted] (OGC) (FBI)  
**Subject:** RE: FW: NDA with FBI

b5 -1,2  
b6 -1  
b7C -1

[Redacted]

I apologize for my continued emails, but I want to make sure I have this right, and based on your email last week, [Redacted]

[Redacted]

Your guidance is appreciated.

[Redacted]

b6 -1  
b7C -1  
b7E -2

**From:** [Redacted] (OGC) (FBI)  
**Sent:** Monday, April 27, 2015 8:42 AM  
**To:** [Redacted] (FBI)  
**Subject:** RE: FW: NDA with FBI

If you're doing [Redacted]

[Redacted]

[Redacted]

[Redacted]

b5 -1,2  
b6 -1  
b7C -1  
b7E -2,3

Science & Technology Policy & Law Unit  
Federal Bureau of Investigation

Office: [Redacted]

BB [Redacted]

E-Mail [Redacted]

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**From:** [redacted] (FBI)  
**Sent:** Monday, April 27, 2015 11:41 AM  
**To:** [redacted] (OGC) (FBI)  
**Subject:** RE: FW: NDA with FBI

b6 -1  
b7C -1

[redacted]

Maybe we are looking at different versions of the NDA, and maybe we used the wrong one. The one I am looking at, and was sent to th [redacted] as the following:

b3 -1  
b7E -1

4 [redacted] will not distribute, disseminate, or otherwise disclose to the public, including to any non-law enforcement individuals or agencies, any information concerning the existence of the equipment/technology...

It also states, [redacted] will ensure that operators of the equipment have met the operator training standards identified by the FBI and are certified operations." [redacted]

b3 -1  
b5 -1,2  
b7E -1

[redacted] Maybe we can solve this whole mess if we discover we are using an incorrect NDA...

[redacted]

**From:** [redacted] (OGC) (FBI)  
**Sent:** Wednesday, April 22, 2015 12:53 PM  
**To:** [redacted] (FBI); [redacted] (FBI); [redacted] (OGC) (FBI); [redacted] (OTD) (FBI)  
**Cc:** [redacted] (FBI); [redacted] (FBI)  
**Subject:** RE: FW: NDA with FBI

b3 -1  
b5 -1,2  
b6 -1  
b7C -1  
b7E -1,2

I think part of the reluctance is that [redacted]

[redacted]

[Redacted]

b5 -1,2

[Redacted]

[Redacted]

Science & Technology Policy & Law Unit  
Federal Bureau of Investigation

Office: [Redacted]

BB [Redacted]

E-Mail: [Redacted]

b6 -1  
b7C -1  
b7E -2

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b6 -1  
b7C -1  
b7E -2

**From:** [Redacted] (FBI)

**Sent:** Wednesday, April 22, 2015 3:42 PM

**To:** [Redacted] (OGC) (FBI); [Redacted] (FBI); [Redacted] (OGC) (FBI); [Redacted] (OTD) (FBI)

**Cc:** [Redacted] (FBI); [Redacted] (FBI)

**Subject:** RE: FW: NDA with FBI

[Redacted]

b3 -1  
b5 -1,2  
b7E -1

Based on an informal survey of other CDCs - [Redacted]

[Redacted]

**From:** [Redacted] (OGC) (FBI)

**Sent:** Wednesday, April 22, 2015 12:26 PM

b6 -1  
b7C -1

To: [redacted] (FBI); [redacted] (LA) (FBI); [redacted] (OGC) (FBI); [redacted]

[redacted] (OTD) (FBI)

Cc: [redacted] (FBI); [redacted] (FBI)

Subject: RE: FW: NDA with FBI

b3 -1  
b5 -2  
b6 -1  
b7C -1  
b7E -1

This is, to a large degree [redacted]

[redacted]

Maybe the solution is an FBI only meeting to better understand the issues, and then a meeting with

[redacted]

Also, if you want to call me direct to discuss, I'm happy to chat.

[redacted]

[redacted]

b6 -1  
b7C -1  
b7E -2

Science & Technology Policy & Law Unit

Federal Bureau of Investigation

Office [redacted]

BB [redacted]

E-Mail [redacted]

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b6 -1  
b7C -1  
b7E -2

From: [redacted] (FBI)

Sent: Wednesday, April 22, 2015 2:33 PM

To: [redacted] (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI);

[redacted] (OTD) (FBI)

Cc: [redacted] (FBI); [redacted] (FBI)

Subject: RE: FW: NDA with FBI

Hey guys,

Still waiting on something from you guys. As an update, we had a homicide suspect the [redacted]s trying to track down this morning, who fled the scene with the weapon but we could not assist because the NDA language is still an issue. Further, the [redacted] sent out a memorandum to all of its [redacted] telling them not to agree to any NDA provisions. I think we can all agree that assistance to state and local LEAs put violent criminals away is a good thing, so with that in mind, can we please try and move to get something done so we can provide that assistance?

b3 -1  
b7E -1

Thanks,

[Redacted]

**From:** [Redacted] (FBI)  
**Sent:** Wednesday, April 15, 2015 9:13 AM  
**To:** [Redacted] (OGC) (FBI); [Redacted] (OGC) (FBI); [Redacted] (OTD) (FBI)  
**Cc:** [Redacted] (FBI); [Redacted] (FBI); [Redacted] (FBI)  
**Subject:** FW: FW: NDA with FBI

b6 -1  
b7C -1

Gentlemen:

We have been working to get the NDA's in place regarding the [Redacted] according to policy. After several months -- below is the email we received from the [Redacted] regarding the agreement. Honestly, I am not surprised.

b3 -1  
b5 -1,2  
b7E -1,3

[Redacted]

Can you please look at the concerns from the [Redacted] and let us know if you are willing to accommodate their concerns?

In the meantime -- we are planning to advise the [Redacted] [Redacted] if you think we should advise the [Redacted] otherwise -- please let us know.

**From:** [Redacted] (FBI)  
**Sent:** Wednesday, April 15, 2015 8:52 AM  
**To:** [Redacted] (FBI); [Redacted] (FBI)  
**Cc:** [Redacted] (FBI)  
**Subject:** FW: FW: NDA with FBI

b5 -1,2  
b6 -1  
b7C -1  
b7E -3

See the email below re [Redacted] non-disclosure.

I am not surprised. I am going to forward this to HQ and let them decide how to proceed/if they are willing to make edits that accommodate their concerns. Alternatively, they can [Redacted] deal with the requisite non-disclosures that way.

Whatever it is -- I am glad to have some transparency on this - shedding light on this is a good thing.



**From:** [redacted]  
**Sent:** Tuesday, April 14, 2015 2:03 PM  
**To:** [redacted] (FBI)  
**Subject:** Re: FW: NDA with FBI

b6 -1,2  
b7C -1,2

[redacted]

I have reviewed the proposed non-disclosure agreement and have discussed it with my [redacted] [redacted]. We have serious reservations about signing the agreement. Specifically, we are troubled by Paragraphs 7 and 13, which would preclude us from disclosing any information regarding the technology, beyond the results obtained, as part of our statutory or *Brady* discovery obligations, without first obtaining the written approval of the FBI. Paragraph 7 specifically precludes us from providing information about the technology "in response to a court order" without prior written approval from the FBI. The further restriction in Paragraph 7 precluding the use of the information in a search warrant affidavit could cause an affiant to mislead a magistrate and possibly result in the quashing of a warrant.

Additionally, Paragraph 9, would require this office, at the request of the FBI, to dismiss a case in lieu of providing discovery about the technology. We understand the FBI's concerns that revealing the capabilities of this technology could allow criminals to employ countermeasures to avoid detection. However, agreeing never to disclose the technology in discovery, even when ordered to do so by a court, without prior FBI approval, could place our prosecutors in a position of compromising their statutory and ethical duties. Agreeing to dismiss a well-founded case to avoid providing discovery could inhibit their duty to vigorously advocate on behalf of victims. As a result, we cannot sign the agreement as it is currently drafted.

[redacted] (FBI)" ---04/14/2015 11:56:32 AM-- [redacted] (FBI)"  
[redacted] (FBI)"  
04/14/2015 11:56 AM

b6 -1,2  
b7C -1,2  
b7E -2

To [redacted]  
cc  
Subject FW: NDA with FBI

Hello Again --

I wanted to follow up on our emails below. Have you received any feedback? Is there resistance to signing the non-disclosure or is it just not "on the top of the TO DO pile?"

If you could let me know what is going on in your office that would be great. The boots on the ground agents that are dealing with this technology are suffering as a result of not having this in place. In the interim -- we have been

relying on an acknowledgement of the NDA – but it seems that can even be frustrating to obtain.

Thanks in advance to your attention to this.

[Redacted]

b6 -1,2  
b7C -1,2

**From:** [Redacted] (FBI)  
**Sent:** Monday, March 30, 2015 1:45 PM  
**To:** [Redacted]  
**Subject:** FW: NDA with FBI

Greetings-

Thought it might be time to bring this up again. Have you received any feedback?

[Redacted]

FBI Los Angeles

[Redacted]

b6 -1  
b7C -1  
b7E -2

**From:** [Redacted]  
**Sent:** Thursday, January 29, 2015 5:07 PM  
**To:** [Redacted]  
**Subject:** RE: NDA with FBI

Disregard my last email to you! I missed this.

**From:** [Redacted]  
**Sent:** Wednesday, January 28, 2015 3:50 PM  
**To:** [Redacted] (FBI)  
**Subject:** Re: NDA with FBI

Just wanted to update you. I forwarded your request to my supervisor [Redacted] and he will be discussing it with the [Redacted]

b6 -1,2  
b7C -1,2  
b7E -2

[Redacted]  
[Redacted]  
01/21/2015 09:56 AM

[Redacted] -01/21/2015 09:56:33 AM-- [Redacted]

To [Redacted]

cc

Subject NDA with FBI

[redacted]

b6 -2  
b7C -2

Thank you for your attention to this matter. As we discussed briefly on the phone, per our policy we are obligated to have a non disclosure agreement in place when we share our technical equipment. (This almost always comes up when assisting the local police and using [redacted] to locate fugitives). Currently we are getting out non-disclosure notices to the [redacted] and your office on an ad – hoc basis at the time of the investigation (usually when time is of the essence). This is both inefficient and not really accomplishing what we wish to accomplish. It would be much more efficient for us to have a standing NDA with you and [redacted] when circumstances arise and we all need to be nimble – we don't need to be getting acknowledgments on something we probably all agree on anyway. Currently, we have a standing NDA with the [redacted] and I would like to have one in place with your office and [redacted]

b3 -1  
b7E -1,3

A draft is attached for your review. I am not committed to having your office and [redacted] in the same document (although it would make things easy and my thought was if you were on board – considering the content – they could easily be on board too). Also – per our policy the [redacted]s supposed make the commitment – but if it makes sense for someone else in your office to be the signatory – please advise us on that.

If you have any problem with the content – let me know. My hope is we can work together to put something in place to make the lives of the investigators a little easier.

Thanks again.

[redacted]

FBI Los Angeles

[redacted]

b6 -1  
b7C -1  
b7E -2,3

(See attached file: NDA [redacted].pdf)